

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 23-1483 MLG

SERAPHINE WARREN-BEGAY, et al,

Defendants.

**SERAPHINE WARREN-BEGAY'S OPPOSED MOTION TO AMEND CONDITIONS OF
RELEASE TO ALLOW CONTACT WITH HER SISTER AND BROTHER-IN-LAW**

Seraphine Warren-Begaye, through her counsel, Justine Fox-Young, hereby moves the Court to permit her to have contact and communications with her co-defendants, Josephine Bekay (Ms. Warren-Begay's sister) and Nelton Bekay (Ms. Warren-Begay's brother-in-law)

1. Ms. Warren-Begay was arrested on October 25, 2023 in the District of Utah based on a warrant issued in this district. She is charged with one count of kidnapping and aiding and abetting contrary to 18 U.S.C. 1201(a)(1) and one count of conspiracy to commit kidnapping contrary to 18 U.S.C. 1201(c). *See Docs. 2, 42.*

2. Ms. Warren-Begay was released from custody on conditions on October 26, 2023. The Court's conditions include that she "avoid all contact, directly or indirectly, with any person who is or may be an alleged victim, potential witness and/or defendant in the investigation or prosecution." *See Doc. 40 at 2.*

3. Among the co-defendants are Ms. Warren-Begay's sister, Josephine Bekay, and Ms. Warren-Begay's brother-in-law, Nelton Bekay, both of whom are out of custody on conditions of release. *See Docs. 24, 25.* Pursuant to their respective conditions of release, Mr. and Mrs. Bekay are required to "avoid all contact, directly or indirectly, with any person who is or may be a victim

or witness in the investigation or prosecution, including: co-defendants” with the exception that the Bekays may have contact with one another but may not discuss the case. *See id.*

4. The defendants are part of a tight knit family, many of whom live in remote rural locations on the Navajo reservation and depend upon one another for help in gathering and delivering wood and other materials. Specifically, Ms. Warren-Begay and Ms. Bekay typically work together to gather wood so that their mother can heat her home, also using Ms. Bekay’s truck, which is the more reliable vehicle as between the sisters’, to transport the wood.

5. The extended family, including Ms. Warren-Begay’s five children and two grandchildren and Ms. Bekay’s three children, also typically gathers at the Bekays home for holidays. Without a change in the Court’s conditions, the family will be unable to gather for the upcoming Thanksgiving holiday on November 23rd.

6. The incidents in the indictment are alleged to have occurred on April 1, 2021, over two and a half years ago during which time the defendants have lived normally as a family and have freely associated with and communicated with one another. As the government concedes, “the delay in prosecuting this matter is unacceptable.” *See Doc. 20 at 5.* Given this delay in prosecution and all of the other above considerations, Ms. Warren-Begay respectfully requests that the Court amend her conditions of release in order to allow her tight knit family to continue to care for and assist one another, and to gather for the Thanksgiving holiday and on other occasions.

7. For all of the above reasons, Ms. Warren-Begay respectfully requests that the Court amend her conditions of release to provide that she may have contact with her sister, Ms. Bekay, and her

sister's husband, Mr. Bekay.¹ Should the Court require it, Ms. Warren-Begay has no objection to the proviso that she be restricted from discussing this case with the Bekays.

8. It is not clear that a magistrate judge in this district may alter the conditions of release imposed on Ms. Warren-Begay in the Utah magistrate judge's release order; however, the district court certainly may do so as it possesses the "ultimate decision-making power and continuing jurisdiction over the actions of magistrate judge." *See United States v. Cisneros*, 328 F.3d 610, 616 (10th Cir. 2003) (holding that, at least in the context of reviews and appeals of §3145 release and detention orders, the magistrate acts subsidiary to and only in aid of the district court and has no authority to rule on a party's motion to revoke another magistrate judge's release order.)

9. The Government, through Assistant United States Attorney Matthew McGinley, has indicated it opposes this motion.

10. Morgan Wahlen, Ms. Warren-Begay's pretrial services officer in Utah has indicated that she does not oppose this motion or the relief requested herein.

11. Marc Robert, counsel for Josephine Bekay, has indicated that his client does not oppose this motion or the relief requested herein.

12. Ahmad Assed, counsel for Nelton Bekay, has indicated that his client does not oppose this motion or the relief requested herein.

WHEREFORE, Defendant Seraphine Warren-Begay respectfully requests that the Court permit her to have contact and communications with her co-defendants, Josephine and Nelton Bekay, with the proviso that the defendants are not permitted to discuss the case.

¹ Because the Bekays' conditions of release do not permit them to have contact with Ms. Warren-Begay, it is anticipated that their respective counsel will also file motions to amend conditions of release requesting the same change.

Respectfully submitted,

JUSTINE FOX-YOUNG, P.C.

/s/ Justine Fox-Young

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was served to all interested parties via the CM/ECF system on this 16th day of November, 2023.

/s/ electronically filed

Justine Fox-Young